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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,689	08/02/2001	Mark T. Anderson	56240US003	6481

32692 7590 10/29/2004

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER

LEVY, NEIL S

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	09/920,689	Applicant(s)	ANDERSON ET AL.
Examiner	Neil Levy	Art Unit	1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5,6,8-36,38-85 and 87-108 is/are pending in the application.
- 4a) Of the above claim(s) 6,9-11,21,31-34,36,39,40,42-84 and 93-108 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5,8,13-20,22-24,26-30,41,85,87,90,92 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-3,5,6,8-36,38-85,87-108 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6, 9-11, 21, 25, 31-34, 36, 39, 40, 42-84, 93-108, stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on paper # 5.

Claims 1-3, 5, 8, 13-20, 22-24, 26-30, 41, 85, 87, 90, 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoddart et al WO 0051724 in view of Stucky et al WO 99/37705 and Ohno-4579779.

The rejection of record is maintained, although Stoddart, showing disposing of pheromonal compounds into inorganic matrix channels does not disclose structure directing surfactant agents when forming the matrix, Stuckey does describe this process (p.42). There is no restriction on the use of Stuckey. Thus, Ohno exemplifies use of the matrices of Stoddart preparation shown by Stuckey, for particular use as desired.

Applicant's arguments filed 7/20/04 have been fully considered but they are not persuasive. Applicant argues the now claimed invention is not motivated in the art of record. However, the process is not disclosed as critical, and the composition of the pheromone, undisclosed in independent claims, the surfactants, also undisclosed and the inorganic matrix, also of undisclosed material is seen as within the skill of the artisan to practice, given the prior art of record.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (571) 272-0619. The examiner can normally be reached on Tuesday through Friday from 7:00a.m to 5:30p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached on (571) 272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Levy/tgd

October 18, 2004



NEIL S. LEVY
PRIMARY EXAMINER